

SERVED: June 4, 2004

NTSB Order No. EA-5095

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)
on the 4th day of June, 2004

Petition of)

BRUCE DEVILLE)

for review of the denial by the)
Administrator of the Federal)
Aviation Administration of the)
issuance of an Inspection)
Authorization.)

Docket CD-38

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because it was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 C.F.R. Part 821).¹ We will grant the motion, to which respondent filed no responsive pleading.

¹Section 821.48(a) provides as follows:

§ 821.48(a) **Briefs and oral argument.**

(a) Appeal briefs. Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

The record establishes that respondent filed a timely notice of appeal from the law judge's February 2nd order, but he did not file an appeal brief within 30 days after that date, that is, by March 3, 2004.²

In the absence of good cause to excuse respondent's failure either to perfect his appeal by filing a timely appeal brief or to submit a timely extension request for filing the brief after the deadline, dismissal of his appeal is required by Board precedent. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

Ronald S. Battocchi
General Counsel

²The law judge granted the Administrator's motion for summary judgment and sustained the denial of the petitioner's Inspection Authorization, pursuant to section 65.91(c) of the Federal Aviation Regulations, 14 C.F.R. Part 65.